

**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL, DIST.RAIGAD
ORDER BELOW EXHIBIT-3 IN SESSIONS CASE NO.52/2022
CNR NO.MHRG170005982022**

(Dated 22/04/2022)

1. The applicant **Dr.Pankaj Gopalrao Patil** has preferred the successive **second application** u/sec.439 of Cr.P.C. for grant of bail in C.R.No.437/2021 registered with Kamothe Police Station u/sec. 370 r.w.34 of IPC and under section 81, 87 of Juvenile Justice (Care and Protection of Children) Act 2015 after filing of charge-sheet.

2. Heard Ld.Adv.Shri Hemant Deshmukh for the applicant who submitted that applicant was arrested on 29/10/2021 after the alleged raid effected on his clinic on the basis of information received by the witness Salim Shaikh that, the applicant is indulging in the activities of trafficking of the small child by accepting the consideration. Ld.Adv.submitted that, in the complaint lodged by a police naik Smt. Manthan Vijay Patil with information that, API Mahala attached with Crime Branch informed that, he has received the information from social worker Salim Shaikh that, the applicant having his clinic in the name and style as 'Family Health Care' at Kamothe is going to sell baby girl for Rs.4,00,000/- and as such a trap was laid on his clinic. In the complaint it is further informed that, the informant alongwith raiding party member went to the concerned clinic and had a discussion with the applicant regarding the procurement of child and at the material time the applicant called someone by making a phone call and thereafter three women visited said

clinic and out of said women one woman delivered a baby to the applicant and thereafter all women went away. It is further informed that a bag of consideration amount was given to the applicant which he kept in his possession and later on the trap laying officer rushed to the clinic and accosted the applicant as well as the said three women.

3. Ld.Adv. submitted that, the allegations are false and made with ulterior motive. Ld.Adv.submitted that, the charge-sheet is filed in this matter which shows that investigation is complete. Ld.Adv.submitted that there is no evidence that the applicant has tendered the amount or part of the same to the other co-accused persons in order to prima facie show that, at the material time certain transaction was done.

4. Ld.Adv.submitted that, though section 370 of IPC has been applied to the matter from the facts and circumstances in the matter there does no exists any ingredient which attracts exploitation as from the contentions no party has been exploited by the present applicant as there does not appear any interse transactions between the mother of the child and the present applicant. Ld.Adv.submitted that, the victim child was handed over to its mother and she has also been granted bail.

5. Ld.Adv.submitted that, applicant is a doctor by profession having good standing in the society and he also works as a lecturer in MGM Medical College. Ld.Adv.submitted that,

applicant has deep roots in the society and there are no chances of his absconding. Ld.Adv. submitted that, it will take considerable time for trial and applicant cannot be kept behind bar for uncertain period. Ld.Adv.submitted that the applicant is permanent resident at the given address and shall abide the conditions that may be imposed by this court and prayed for bail.

6. Ld.APP Shri Yerunkar resisted the application and submitted that, earlier application has been rejected on merits. In the present matter the applicant is a main accused who not only indulged in the illegal trafficking of the child but he has also acted as a procuring agent and has taken undue advantage of the mother of the victim child who might have decided to sell her child for some reasons. Ld.APP. submitted that, the applicant has criminal antecedent to his discredit as there is another crime of Kalamboli police station for outraging the modesty. Ld.APP. submitted that, granting bail to the mother of the victim child who is also an accused cannot be consider as a ground of parity for the applicant. Ld.APP. submitted that, applicant being a doctor by profession in having influential powers and there is possibility of tampering prosecuting witnesses and prayed for rejection of application.

7. Upon hearing the learned advocates and on prima facie perusal of the copy of charge-sheet at the outset it is to be noted that present applicant has been caught raid handed in a trap which was based on specific informations which has been

confirmed during raid that the applicant is dealing in the business of procurement illegal trafficking of the child against the consideration. The necessary panchanama of the proceedings shows all the events which has been corroborated by the witnesses in their statements. CDR of present applicant fairly indicates that, he has taken efforts of arranging the child (victim baby) for certain consideration which he has accepted at the time of trap proceeding.

8. The case in hand is a black dot to the noble profession of medicine, where the doctor himself indulged in activities of illegal trafficking. In the present matter there appears active role of the applicant in the entire affair of procuring and delivering a child to the expected parent. The report of the concerned police station shows that in the past there is criminal antecedents against the applicant for the offence of outraging modesty. The involvement of the applicant in the present crime is of great concern considering to his profession. Though the charge-sheet is filed in the matter, there is substance in the submissions of Ld.APP that, the applicant may influence prosecution witnesses in the event of grant of bail. Certainly granting bail to the mother of victim child (on humanitarian ground) cannot be a ground of parity to the present applicant.

9. All the above grounds have already been considered in the earlier application No.82/2022 rejected vide order dated 10/02/2022. As far as the contentions of ingredients required

for exploitation under section 370 are concerned it is a matter of trial as even receiving payment by abusing the power, herein as a doctor in a medical profession acting as a tout for procuring a child from a needy person in order to hand it over to the other person and also been considered as a exploitation. Considering the severity of the crime this court is of the view that there are no new grounds agitated by the applicant, hence he cannot be enlarge on bail. Hence order.

ORDER

1. Application Exh.1 is rejected.
2. Application is accordingly disposed of

(Directly dictated in open court on the office computer.)

Panvel

Dated :-22/04/2022

(R. G. Asmar)

Addl. Sessions Judge, Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	S.J.Sheth
Name of Court	Addl. Sessions Judge, Panvel-Raigad
Date of Dictation	22/04/2022
Order signed by the P.O. on	22/04/2022
Order uploaded on	29/04/2022